

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
FILED

JUL 11 2012

David J. Bradford, Clerk of Court

UNITED STATES OF AMERICA

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v.

Cr. No. H-09-342-S

GILBERT T. LOPEZ, Jr. (3) and  
MARK J. KUHRT (4),

Defendants.

**SUPERSEDING INDICTMENT**

THE GRAND JURY CHARGES:

**COUNT ONE**

(Conspiracy to Commit Wire Fraud – 18 U.S.C. § 1349)

**A. INTRODUCTION**

At all times relevant to this Superseding Indictment:

**Entities and Individuals**

1. Stanford Financial Group (“SFG”) was incorporated in both Florida and Antigua (a Caribbean island nation), was based in Houston, Texas, and maintained offices in other locations, including Memphis, Tennessee. SFG provided its affiliated companies with professional support services, including investment research and accounting. Two of SFG’s affiliates were Stanford International Bank, Ltd. (“SIB”) and Stanford Group Company (“SGC”).

2. SIB was incorporated and based in Antigua. SIB was a private, offshore bank whose primary product was the certificate of deposit (“CD”). CDs are financial products that entitle the purchaser of the CD to receive a specified amount of interest after holding the CD for a certain period of time. Prior to 1994, SIB was known as Guardian International Bank.

3. SGC was incorporated in Texas, was based in Houston, and maintained offices throughout the United States. SGC was affiliated with SIB and SFG, and was registered with the United States Securities and Exchange Commission as an investment advisor and as a “broker-dealer.”

4. The Financial Services Regulatory Commission (“FSRC”) was an Antiguan government agency that had regulatory authority over SIB.

5. An Antiguan accounting firm (the “Outside Auditor”) purportedly performed audits that verified the accuracy of SIB’s financial statements.

6. Robert Allen Stanford is a co-conspirator not named as a defendant herein. Stanford was the sole shareholder (owner) of SIB, SFG, SGC, and their affiliated entities. Among other things, he served as SFG’s Chief Executive Officer and as Chairman of SIB’s Board of Directors.

7. James M. Davis is a co-conspirator not named as a defendant herein. Davis was an accountant initially hired by Stanford in 1988 to serve as Controller of Guardian International Bank. After the formation of SIB in the early 1990s, Davis served as both SIB's and SFG's Chief Financial Officer.

8. The defendant **GILBERT T. LOPEZ, Jr.** was an accountant who joined SFG in September 1997 as its Assistant Controller. Between April 1998 and September 2006, **LOPEZ** served as SFG's Controller and then also as its Assistant Chief Financial Officer. In September 2006, **LOPEZ** was named SFG's Chief Accounting Officer.

9. The defendant **MARK J. KUHRT** was an accountant initially hired by SFG affiliate Stanford Leasing Company ("SLC"), in December 1997, to serve as SLC's Fixed Assets Manager. From July 2000 through December 2003, **KUHRT** served as an accounting manager at SFG. In January 2004, **KUHRT** was appointed SFG's Assistant Controller and, in April 2006, **KUHRT** was named SFG's Controller. In August 2007, **KUHRT** became the Global Controller of Stanford Financial Group Global Management ("SFGGM").

### **SIB's CD Program**

10. SIB sold its CDs in the United States and elsewhere via its affiliated companies, including SGC, whose financial advisors sold SIB CDs to their existing and potential clients. According to SIB promotional materials, financial statements, and other published reports, SIB purported to invest the proceeds from the sale of its CDs by purchasing various assets that generated positive returns. SIB then purportedly used those returns to pay the CD purchasers. SIB promised higher rates of return on its CDs than were generally offered by banks in the United States. SIB claimed that it was able to offer these higher returns at least in part because of the successful performance of its investment portfolio.

11. SIB marketed its CDs as safe and secure investments. Specifically, SIB's promotional materials, financial statements, and other published reports described SIB as "strong, safe and fiscally sound" and stated that its "conservative" investment strategy was "long term, hands on and globally diversified with strong liquidity and minimal leverage." According to SIB's promotional materials, financial statements, and other published reports, the value of SIB's assets consistently rose year after year, and in December 2008, SIB claimed to have total assets of approximately \$8.5 billion. These representations were relied upon by existing and prospective SIB depositors, as well as by SGC's financial advisors who sold SIB CDs to their clients.

**B. THE CONSPIRACY**

12. From in or about 1990 through February 2009, in the Southern District of Texas and elsewhere, the defendants **GILBERT T. LOPEZ, Jr.** and **MARK J. KUHRT**, together with others, did knowingly combine, conspire, confederate and agree to commit certain offenses against the United States, that is: to devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate and foreign commerce, for the purpose of executing the scheme, in violation of Title 18, United States Code, Section 1343.

**C. PURPOSE OF THE CONSPIRACY**

13. It was a purpose of the conspiracy that the defendants and their co-conspirators would defraud SIB depositors by inducing the purchase of SIB CDs through material misrepresentations concerning the strategy, nature, and performance of SIB's investment portfolio, in order to enrich themselves through the payment of wages, bonuses, and other monies.

**D. MANNER AND MEANS OF THE CONSPIRACY**

14. The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

**Misrepresenting SIB's Investment Strategy**

a. It was part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations concerning SIB's investment strategy as investing in a well-diversified portfolio of highly marketable securities in order to "minimize risk and achieve liquidity," when, in truth and in fact, a substantial portion of SIB's investment portfolio consisted of risky and illiquid investments, such as private equity investments and unsecured and undisclosed loans to Stanford.

**Misrepresenting the Nature of SIB's Assets**

b. It was further part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations that SIB's entire investment portfolio was invested in assets consisting of stocks, bonds, foreign currencies, and other financial assets, when, in truth and in fact, SIB had invested only a fraction of the portfolio in such assets while a substantial

portion of SIB's investment portfolio consisted of risky and illiquid investments, such as private equity investments and unsecured and undisclosed loans to Stanford.

**Misrepresenting SIB's Use of CD Proceeds**

c. It was further part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations that SIB did not expose its depositors to the risks associated with commercial loans, and that SIB's only form of lending was to existing SIB depositors and only on a cash-secured basis, when, in truth and in fact, SIB made substantial unsecured and undisclosed loans to Stanford, who used the money to fund his personal business ventures, to live a lavish lifestyle, and for other improper purposes.

**Misrepresenting the Performance of SIB's Investments**

d. It was further part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations concerning SIB's financial condition by reporting falsified and inflated revenue figures, in order to deceive existing and potential SIB depositors into believing that SIB's investments were performing as represented.

**Misrepresenting Stanford's Loan Repayments**

e. It was further part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations concerning Stanford's loan repayments by engaging in sham transactions that artificially inflated the value of certain assets being transferred back to SIB from Stanford as partial repayment of the loans.

**Misrepresenting Stanford's Capital Contributions**

f. It was further part of the conspiracy that the defendants and their co-conspirators would make and cause to be made false and misleading representations that Stanford had made certain capital contributions to SIB, when, in truth and in fact, Stanford did not make such capital contributions.

**Fraudulently Revaluing Real Estate**

g. It was further part of the conspiracy that the defendants and their co-conspirators would engage and planned to engage in a series of sham transactions between SIB and various Stanford controlled entities that would result in real estate purchased by SIB for \$63.5 million being revalued at \$3.2 billion, in an attempt to falsely indicate that Stanford had: (1) repaid over \$1.7 billion in loans from SIB and (2) made over \$741 million in capital contributions to SIB.



**Bribing the Regulator and the Outside Auditor**

h. It was further part of the conspiracy that members of the conspiracy would and did bribe the FSRC and the Outside Auditor in order to conceal and prolong the fraudulent scheme.

**E. OVERT ACTS OF THE CONSPIRACY**

15. In furtherance of the conspiracy, and to achieve the object and purpose thereof, at least one of the co-conspirators committed and caused to be committed, in the Southern District of Texas and elsewhere, at least one of the following overt acts, among others:

a. At various times between January 1990 and February 2009, the co-conspirators, including **LOPEZ** and **KUHRT** from at least 2003 forward, prepared and provided information for the preparation of promotional materials, financial statements, and other published reports disseminated by SIB to existing and potential depositors that contained false disclosures regarding the strategy, nature, and performance of SIB's investment portfolio.

b. On or about July 11, 2003, **KUHRT** sent an email from Houston, Texas, to Davis in Memphis, Tennessee, with a copy to **LOPEZ**, explaining that loans from SIB to Stanford exceeded \$19.6 million for the month of June 2003.

c. On or about November 2, 2004, **KUHRT** sent an email from Houston, Texas, to Davis in Memphis Tennessee, with a copy to **LOPEZ**, concerning a November 2004 sham transaction designed to falsely inflate the amount Stanford had purportedly repaid on his loans from SIB.

d. On or about August 9, 2005, **LOPEZ** sent an email from Houston, Texas, to Davis in Memphis, Tennessee, with a copy to **KUHRT**, discussing \$95 million in loans Stanford had received from SIB during the first six months of 2005.

e. On or about February 23, 2006, **LOPEZ** and **KUHRT** caused an SFG employee to send an email from Houston, Texas, to Davis in Memphis, Tennessee, stating that SIB had loaned Stanford \$167,726,759 during 2005, thereby increasing the total outstanding loan amount to \$885,831,805.

f. On or about January 22, 2007, **KUHRT** sent an email from Houston, Texas, to an SIB employee in Antigua containing fictitious 2006 SIB asset figures to be reported to the FSRC in a regulatory filing.

g. On or about August 30, 2007, **LOPEZ** and **KUHRT** caused an SFG employee to send an email to another SFG employee containing information about an additional \$54 million in loans from SIB to Stanford.

h. On or about December 21, 2007, **KUHRT** sent an email from St. Croix, U.S. Virgin Islands, to an SFG employee in Houston, Texas, containing historical financial information concerning the November 2004 sham transaction designed to falsely inflate the amount Stanford had purportedly repaid on his loans from SIB.

i. On or about January 16, 2008, **KUHRT** sent an email from St. Croix, U.S. Virgin Islands, to an SIB employee in Antigua containing false SIB revenue entries for 2007.

j. On or about March 26, 2008, **KUHRT**, from St. Croix, U.S. Virgin Islands, **LOPEZ**, from Houston, Texas, and Davis, from Memphis, Tennessee, discussed via email a sham 2008 transaction designed to falsely inflate the amount Stanford had purportedly repaid on his loans from SIB and the amount of an alleged capital contribution from Stanford to SIB.

k. On or about July 2, 2008, **LOPEZ** mailed financial documents needed to complete the 2008 sham transaction.

l. On or about October 14, 2008, **LOPEZ** sent an email from Houston, Texas, to **KUHRT** in St. Croix, U.S. Virgin Islands, directing **KUHRT** to compare the fictitious 2007 SIB asset figures reported to the FSRC with entries in SIB's 2007 annual report.

m. On or about November 10, 2008, **KUHRT** sent an email from St. Croix, U.S. Virgin Islands, to Davis in Memphis, Tennessee, with a copy to **LOPEZ** in Houston, Texas, containing various fabricated return on investment scenarios.

n. On or about December 17, 2008, **LOPEZ** sent an email from Houston, Texas, to Davis in Memphis, Tennessee, discussing fictitious 2008 capital contributions from Stanford to SIB.

o. On or about December 23, 2008, **KUHRT** sent an email from St. Croix, U.S. Virgin Islands, to Davis in Memphis, Tennessee, attaching a spreadsheet outlining a sham real estate transaction intended to falsely indicate that Stanford had: (1) repaid over \$1.7 billion in loans from SIB and (2) made over \$741 million in capital contributions to SIB.

p. On or about December 23, 2008, **LOPEZ** sent an email from Houston, Texas, to Davis in Memphis, Tennessee, providing the password to access the spreadsheet previously sent by **KUHRT** concerning the sham real estate transaction.

q. On or about January 5, 2009, **KUHRT** sent an email from St. Croix, U.S. Virgin Islands, to **LOPEZ** in Houston, Texas, containing a spreadsheet and flowchart concerning the sham real estate transaction.

All in violation of Title 18, United States Code, Section 1349.

**COUNTS TWO THROUGH ELEVEN**  
**(Wire Fraud – 18 U.S.C. § 1343)**

**A. INTRODUCTION**

16. Paragraphs 1 through 11 of this Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein.

**B. THE SCHEME AND ARTIFICE TO DEFRAUD**

17. From in or about at least 1990 through in or about February 2009, in the Southern District of Texas and elsewhere, the defendants **GILBERT T. LOPEZ, Jr.** and **MARK J. KUHRT**, together with others, did knowingly and with intent to defraud devise and intend to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made.

**C. PURPOSE OF THE SCHEME AND ARTIFICE**

18. It was a purpose of the scheme and artifice that the defendants and their co-conspirators would defraud SIB depositors by inducing the purchase of SIB CDs through material misrepresentations concerning the strategy, nature, and performance of SIB's investment portfolio, in order to enrich themselves through the payment of wages, bonuses, and other monies.

**D. MANNER AND MEANS OF THE SCHEME AND ARTIFICE**

19. Paragraph 14 of this Superseding Indictment is re-alleged and incorporated by reference herein as a description of the scheme and artifice.

**E. EXECUTION OF THE SCHEME AND ARTIFICE**

20. On or about the dates specified below, the defendants **GILBERT T. LOPEZ, Jr.** and **MARK J. KUHRT**, for the purpose of executing the scheme and artifice to defraud described above, and in attempting to do so, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures and sounds, as more particularly described below:

<b>Count</b>	<b>Date</b>	<b>Description of Wire Communication</b>
Two	November 2, 2004	Email from <b>KUHRT</b> in Houston, Texas, to Davis in Memphis, Tennessee, with a copy to <b>LOPEZ</b> , concerning a November 2004 sham transaction designed to falsely inflate the amount Stanford had purportedly repaid on his loans from SIB.
Three	August 9, 2005	Email from <b>LOPEZ</b> in Houston, Texas, to Davis in Memphis, Tennessee, with a copy to <b>KUHRT</b> , discussing \$95 million in loans Stanford had received from SIB during the first six months of 2005.

Count	Date	Description of Wire Communication
Four	January 22, 2007	Email from <b>KUHRT</b> in Houston, Texas, to an SIB employee in Antigua containing fictitious 2006 SIB asset figures to be reported to the FSRC.
Five	January 16, 2008	Email from <b>KUHRT</b> in St. Croix, U.S. Virgin Islands, to an SIB employee in Antigua containing false SIB revenue entries for 2007.
Six	March 26, 2008	Emails between <b>KUHRT</b> in St. Croix, U.S. Virgin Islands, Davis in Memphis, Tennessee, and <b>LOPEZ</b> in Houston, Texas, discussing a 2008 sham transaction designed to falsely indicate that Stanford had made a capital contribution to SIB and to falsely inflate the amount Stanford had purportedly repaid on his loans from SIB.
Seven	October 14, 2008	Email from <b>LOPEZ</b> in Houston, Texas, to <b>KUHRT</b> in St. Croix, U.S. Virgin Islands, directing <b>KUHRT</b> to compare fictitious SIB asset figures reported to the FSRC with entries in SIB's 2007 annual report.
Eight	November 10, 2008	Email from <b>KUHRT</b> in St. Croix, U.S. Virgin Islands, to Davis in Memphis, Tennessee, with a copy to <b>LOPEZ</b> in Houston, Texas, containing various fabricated return on investment scenarios.
Nine	December 17, 2008	Email from <b>LOPEZ</b> in Houston, Texas, to Davis in Memphis, Tennessee, discussing fictitious 2008 capital contributions from Stanford purportedly totaling \$776 million.

Count	Date	Description of Wire Communication
Ten	December 23, 2008	Email from <b>LOPEZ</b> in Houston, Texas, to Davis in Memphis, Tennessee, providing a password to access documents previously sent by <b>KUHRT</b> concerning a sham real estate transaction intended to falsely indicate that Stanford had: (1) repaid over \$1.7 billion in loans from SIB; and (2) made over \$741 million in capital contributions to SIB.
Eleven	January 5, 2009	Email from <b>KUHRT</b> in St. Croix, U.S. Virgin Islands, to <b>LOPEZ</b> in Houston, Texas, attaching a spreadsheet and flow chart for the sham real estate transaction.

All in violation of Title 18, United States Code, Sections 1343 and 2.



**NOTICE OF FORFEITURE**  
**(28 U.S.C. § 2461(c) and 18 U.S.C. § 981(a)(1)(C))**

21. Pursuant to Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), the United States gives notice to the defendants, **GILBERT T. LOPEZ, Jr.** and **MARK J. KUHRT**, that in the event of their conviction of any offenses charged in Counts One through Eleven of this Superseding Indictment, the United States intends to forfeit all property which constitutes or is derived from proceeds traceable to Counts One through Eleven of the Superseding Indictment, including but not limited to all monies on deposit with Credit Suisse in the United Kingdom in account number LDXXX909 held in the name of Stanford International Bank, Ltd.

22. Defendants are further notified that the United States will seek a money judgment in an amount equal to the total amount of proceeds derived from each such offense for which the defendants are convicted, for which the defendants may be jointly and severally liable with each other and others.

**SUBSTITUTE ASSETS**

23. In the event that any of the property subject to forfeiture as a result of any act or omission of the defendants:

- a. cannot be located upon exercise of due diligence;
- b. has been placed beyond the jurisdiction of the Court;

- c. has been transferred, sold to, or deposited with a third party;
- d. has been substantially diminished in value; or
- e. has been commingled with other property;

it is the intent of the United States to seek forfeiture of any other property of the defendants up to the value of such property pursuant to Title 21, United States Code, Section 853(p), incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL 

Original Signature on File

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FOREPERSON

KENNETH MAGIDSON  
UNITED STATES ATTORNEY

KATHLEEN M. McGOVERN  
ACTING CHIEF, FRAUD SECTION  
CRIMINAL DIVISION  
U.S. DEPARTMENT OF JUSTICE

/s/ Jeffrey A. Goldberg  
JEFFREY A. GOLDBERG  
Deputy Chief



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JASON S. VARNADO  
Assistant United States Attorney

/s/ Andrew H. Warren  
ANDREW H. WARREN  
Trial Attorney